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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

September 20, 1993

William F. Caton
Acting Secretary
Federal Communications Commission
Mail Stop 1170
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Dear Mr. Caton:

Re: *CC Docket No. 93-129 - 800 Data Base Access Tariffs and the 800 Service Management System Tariff*

On behalf of Pacific Bell and Nevada Bell, please find enclosed an original and six copies of their "*Direct Case*" in the above proceeding.

Please stamp and return the provided copy to confirm your receipt. Please contact me should you have any questions or require additional information concerning this matter.

Sincerely,

Jo Ann Goddard

Enclosures

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
800 Data Base Access Tariffs and the	)	CC Docket No. 93-129
800 Service Management System Tariff	)	
	)	

DIRECT CASE OF PACIFIC BELL AND NEVADA BELL

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Date: September 20, 1993

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Summary

Pacific Bell and Nevada Bell filed their 800 Database Access Service tariffs in March, 1993 after many years of debate and delay concerning a service that has proven what the regional operating companies promised it would do back in 1986: promote competition in the 800 market and meet customers' demands for number portability. The tariffs now in effect are clearly presented and adequately describe 800 Database service and its associated rates and charges.

With regard to the Order's inquiry into the price cap rules, the Commission may decide to clarify the rules to address the situation that arose in this case--when both the exogenous adjustment rules and the restructure rules are triggered simultaneously for a new service category within a basket. If the rules are modified to clarify the proper sequence for calculating exogenous costs, compliance with the new rules should only be required on a prospective basis. Pacific calculated its costs in compliance with the rules as they exist today. It therefore should not be penalized by having to recalculate and refile its costs.

Although not specifically mentioned in the Order as a rate of return company required to respond to questions

presented, Nevada Bell has answered the Bureau's questions in good faith.

Both Pacific Bell and Nevada Bell have diligently complied with each and every requirement proffered by the Commission over the long history of the 86-10 docket. The time has come to get on with the provision of the service. The tariffs are just and reasonable and should be allowed to remain in effect.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of 800 Data Base Access Tariffs and the 800 Service Management System Tariff	CC Docket No. 93-129

DIRECT CASE OF PACIFIC BELL AND NEVADA BELL

Pursuant to the Order Designating Issues for Investigation released by the Commission on July 19, 1993 ("Designating Order"),[1] Pacific Bell and Nevada Bell hereby submit this Direct Case showing that our tariffs for 800 Database Access Service are just and reasonable and should be permitted to remain in effect unchanged. By separate filing, Pacific Bell and Nevada Bell also join in the Bell Operating Companies ("BOCs") Direct Case, responding to the Designating Order's investigation of the BOCs' jointly filed 800 Service Management System tariff. Nevada Bell's responses to the Designating Order follow Pacific Bell's responses, below.

[1] In the Matter of 800 Data Base Access Tariffs and the 800 Service Management System Tariff, CC Docket No. 93-129, Order Designating Issues for Investigation, DA 93-930, released July 19, 1993.

I. <u>Pacific's 800 Database Access Service Tariff is Just and Does Not Need to Be Modified</u>.

A. <u>Pacific's Tariff Adequately Describes Area of Service Routing and Query Charges</u>.

The Common Carrier Bureau ("Bureau") invites interested parties to comment on whether the 800 Database tariffs "are consistent with the Communications Act and with the Commission's Orders in CC Docket No. 86-10." (<u>Designating Order</u>, p. 3.) The Bureau questions the reasonableness of the tariffs and cites arguments of petitioners that some of the tariffs fail to clearly state that basic 800 query service includes area of service screening at the LATA level. (<u>Designating Order</u>, p. 3.) Pacific clarified the "Area of Service Routing" description in its Transmittal No. 1621. Pacific's tariff states that its

> basic service provides a customer identification function with Area of Service (AOS) routing, based on the dialed 800 number, ... [and] is based on originating LATA, NPA, or NPA-XXX.[2]

Thus, Pacific's tariff clearly explains that subscribers may customize their 800 service in order to receive calls only from the areas they wish to serve.

Petitioners also have alleged that some tariffs "do not clearly describe when a LEC may charge for a query when the associated call is not delivered to the IXC." (<u>Designating Order</u>, p. 3.) The Commission held

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2 Pacific Bell Tariff F.C.C. No. 128, section 6.2.13, 1st Revised Page 181.33.

> that LECs may charge IXCs for completed queries even if the LEC never actually delivers the associated call to the IXC. We conclude that if a LEC incurs the cost of a completed 800 data base query on behalf of an IXC customer, that as a matter of economic efficiency, the associated IXC should be responsible for covering those costs.[3]

Pacific's tariff explains that 800 Database Service is basically a customer identification function with Area of Service screening. When Pacific suspends the 800 call and queries the database, it is identifying the access customer for hand off of the call. If the query does not identify the IXC for hand off or the call is originated outside of the subscriber's designated area of service, Pacific does not charge for a query, because it would not know who to charge. Thus, if a call is routed to a vacant code or to an out of band code announcement, no query rate is charged. The costs of these incomplete queries are spread across the query rate. Queries that identify the IXC will be charged to the IXC even if the associated call is blocked, which is consistent with the Second Report and Order. Pacific would not be opposed to adding the word "completed" to its query rates in its tariff if it would clarify when the rate will be charged.

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[3] Provision of Access for 800 Service, CC Docket No. 86-10, Second Report and Order, released January 29, 1993, p. 6, ("Second Report and Order.")

B. Uniformity of Tariff Language is Unnecessary.

Parties are also invited by the Common Carrier Bureau ("Bureau") to address the lack of uniformity in the LECs' tariffs. (Designating Order, p. 3.) The Commission's Second Report and Order, which established the general structure of 800 Database service, did not attempt to dictate in detail how the tariffs be written, nor did it suggest that the tariffs should be uniform. So long as the LECs' tariffs are clear and reasonable, there is no requirement that they mirror each other.

Furthermore, the allegation of some petitioners that perceived ambiguities in the tariffs would permit LECs to market interstate vertical features directly to end users is meritless. Although hampering free competition among 800 service providers, the Commission's orders in Docket 86-10 prohibit the LECs from selling vertical features to end users for their interstate traffic.[4] The BOCs must abide by those Orders, unless they are modified, no matter how their tariffs are drafted.

C. RespOrg Services Need Not Be Tariffed.

The Designating Order also inquires as to whether Responsible Organization (RespOrg) services should be included in the 800 Database Service tariffs (Designating Order, p. 4.) There is no requirement that RespOrg services be tariffed

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[4] See Designating Order, p. 3, note 9.

because the RespOrg function is an administrative function. However, if LECs want to tariff RespOrg services, for ease of providing them to customers, that should be permissible. If the Commission requires LECs to tariff RespOrg services, then all RespOrgs should be required to tariff their services. Moreover, the processes for the interaction between service providers and RespOrgs are still being developed at industry meetings. It would therefore be burdensome to tariff RespOrg services because it is likely there will be many changes.

II. Pacific's Method of Calculating its Costs Complies With the Price Cap Rules.

The Bureau asks parties to comment on methods of restructuring traffic sensitive baskets and of calculating the exogenous change permitted by the Commission, and their effect on pricing flexibility. (Designating Order, p. 4.) The Bureau acknowledges that the Commission's rules do not determine the proper sequence for complying with the exogenous adjustment rules and the restructure rules when both are triggered simultaneously for a new service category within a basket.

Therefore, whether the LEC restructures first or calculates the exogenous change first should not be viewed as violating price cap rules. Should the Commission decide herein to clarify the procedure to be used going forward, Pacific will comply with that order prospectively. However, retroactive application of a change in methodology would be burdensome and unfair. Pacific used "Method 1" and restructured first. This method complies with the rules.

A. Both Methods of Calculating Costs Cited in the Order Have Advantages and Disadvantages.

There are advantages and disadvantages to Method 1. One advantage is that the pricing flexibility of the other service categories is minimally affected. Additionally, the final 800 Database rate captured the associated exogenous costs, which is consistent with the intent of the Commission's orders in Docket 86-10 that the costs be borne by the cost causer. Furthermore, with Method 1 the traffic sensitive price cap index (PCI) and actual price index (API) maintain a consistent relationship to each other before and after the introduction of 800 Database Service.

However, this method may result in changes in rates in other service categories in order to remain within the re-established upper and lower band limitations. If significant exogenous costs are included, changes in unrelated rates are more likely to be required

Method 1 does, however, comply with the requirement that restructures be "revenue neutral"[5] using base period demand (in this case, 1991). This method also meets the requirement that PCI changes affect the band limitations of

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[5] 47 C.F.R. 61. 46(c).

each service category.[6] However, the service band indexes (SBIs) do not change every time there is a price change[7] so temporary out of band conditions may occur. In addition, this method initializes the 800 Database SBI at the weighted value of the Traffic Sensitive basket's API, but there is no rule that sanctions or precludes this initialization technique.

There are likewise advantages and disadvantages associated with Method 2 in which the exogenous cost adjustment is calculated first. With Method 2, the increase in the PCI is reflected in the upper and lower band limitations for all service categories, as required by rule 61.47(e). Additionally, it is easy to trace the final disposition of the exogenous costs. Finally, the SBI for the new service category is initialized at 100, rather than the weighted value of the basket's API.

One drawback to Method 2 is that the exogenous costs for a specific service are spread to unrelated services, which is counter to the Commission's goal that cost causers bear the related costs. Also, when Method 2 is used, prices for services in other service categories may need to be revised in order to keep the SBI within the newly established limitations.

In that the rules do not provide guidance when both a restructure and an exogenous cost adjustment occur, neither

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[6] 47 C.F.R. 61.47(a).

[7] Id.

Method 1 nor Method 2 clearly require waivers of the rules. "Method 3" assigns the full value of the exogenous costs for 800 Database to the proper service category which is the database access category. However, this method is not reflected in the rules as currently written.

B. <u>If a Restructured Service With Exogenous Costs Requires a New Service Category, the Rules Should Be Modified</u>.

The rules would need to be modified to provide that if a restructure containing exogenous costs requires a new service category, the full amount of the exogenous costs must be assigned to the related rate element(s) in the new service category and the new SBI must be established for the new service category at the time of the initial tariff filing. The new SBI should be intialized at a value of 100, corresponding to the new service category rates in effect the last day of the base period, and thereafter should be adjusted as provided in paragraph (a) of C.F.R. 61.47.

Pacific Bell believes our method (Method 1) was reasonable and complies with the price caps rules. It would be burdensome and unnecessary to revise the 800 Database filings at this late date. Furthermore, other filings made after the 800 Database tariff filings would also require revision because the PCI_t and SBI_t values, resulting from the 800 Database filings, became the PCI_{t-1} and SBI_{t-1} values in subsequent tariff filings, i.e., Pacific's 1993 annual filing and GSF compliance filing.

Therefore, the LECs' methodology used should be permitted as reasonable for the 800 Database filings. However, on a prospective basis, the Commission should modify its rules to accommodate restructures which have exogenous costs pertinent to only a particular service category.

III. Pacific's Exogenous Costs are Reasonable and Should Be Permitted.

A. Pacific's Exogenous Costs Are Consistent with the Price Cap Rules.

Exogenous costs are defined under price cap rules as follows: "[e]xogenous costs are in general those costs that are triggered by administrative, legislative or judicial action beyond the control of the carriers."[8] In the Commission's Second Report and Order, the exogenous costs for 800 Database Service were defined as "the reasonable costs they (the LECs) incurred specifically for the implementation and operation of the basic 800 Database Service required by Commission orders.[9]

The Designating Order notes that the Bureau has previously found that LECs should not include their overhead costs in exogenous cost calculations. In Transmittal No. 1632

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8 Policy And Rules Concerning Rates For Dominant Carriers, 5 FCC Rcd 6786, 6807 (1990).

9 Second Report and Order, p.11.

Pacific eliminated its overhead costs and does not seek to reclaim them here.

The other exogenous costs claimed by Pacific are consistent with the price cap rules as defined above. The Second Report and Order (at page 11) stated that "exogenous treatment will be accorded to those costs associated with: Service Control Points (SCPs), the Service Management System (SMS), and links between SCPs and the SMS, as well as between Signal Transfer Points (STPs) and SCPs, to the extent such costs are directly attributable to 800 data base services."

The Bureau invited comments concerning treatment for SSP hardware and/or software tandem upgrades. 800 SSP costs claimed by Pacific totaled $ 1.542M. As Pacific explained in its Reply to Protests,[10] these costs were expended specifically for the software package that allows the switch to suspend an 800 call and send the 800 Database query. The software is used discretely for 800 Database Service and cannot be used as a foundation for other services.

Tandem upgrades should also be extended exogenous cost treatment because those costs were only expended to meet the Commission's 1993 access time standards. The tandem capacity upgrades were directly associated with the cutover of 800 traffic to the tandem and thus meet the requirement for

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[10] In the matter of Pacific Bell Tariff F.C.C. No. 128, Transmittal No. 1615, Pacific Bell Consolidated Reply to Protests, at 9-11.

exogenous treatment for those costs incurred specifically for implementation of basic 800 service. Thus, the tandem upgrades referred to in Transmittal 1615 for hardware and software were installed (in most DMS 200 access tandems) to handle the increased 800 traffic in the tandems, and should be included as approved exogenous costs.

The Designating Order invited comments on whether Pacific has claimed exogenous cost treatment for any repair centers, for STPs or for transmission links. Pacific has not done so.

In addition, costs associated with SMS/800 access expenses are also recoverable as appropriate exogenous costs because they are expenses outside of Pacific's control. The SMS must be used in order to provide 800 number portability. The rate for a basic query should include the costs of accessing the SMS.

Furthermore, the concerns expressed in the Designating Order regarding levelized demand do not apply to Pacific's calculation of its exogenous costs, because Pacific used actual demand figures. Pacific's exogenous costs reflect the actual capital costs and other expenses incurred in 1992 in preparation for the inception of 800 Database Service. The capital costs were developed using historical factors for repair and maintenance, administration and depreciation. An 11.25% rate of return was used for the cost of money calculation. Actual state and federal tax rates were used.

The Bureau invites comments about the proper allocation of costs.[11] Pacific has properly allocated shared costs among services (such as 800 Database Service and Line Information Database Service, "LIDB") and between interstate and intrastate jurisdictions. LIDB was filed by Pacific in November of 1991 with a rate reflecting its costs. The costs included in the 800 Database filing were the actual expenditures made in 1992 to upgrade the system to provide 800 number portability. The costs for 800 Database were developed on a total basis with no distinction made between interstate and intrastate costs. The total demand, both interstate and intrastate, was divided into the total costs to arrive at a unit cost which became the filed rate. A parity filing was made with the California Public Utilities Commission, and the same rate is now effective in both jurisdictions.

B. The CCSCIS Model Should Not Be Disclosed.

The Bureau is requiring price cap LECs, including Pacific, to disclose the Common Channel Signaling Cost Information System (CCSCIS) model on the record in this proceeding.[12] This requirement diverges from the Commission's decision regarding the disclosure of the model in the ONA tariff investigation.[13] In the ONA Tariff

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11 Designating Order, p. 8.

12 Id.

13 Commission Requirements for Cost Support Material To Be

Investigation, the Bureau determined that the model was proprietary because of the unique nature of those elements, the fact that LECs needed to rely on such models and because the SCIS model included information proprietary to third parties.[14] The CCSCIS model is conceptually and functionally similar to the SCIS model used for ONA pricing.

The CCSCIS model should remain proprietary, in this proceeding, for the same reasons. As stated in its sworn declaration,[15] Pacific must rely on the CCSCIS model to calculate and apportion the SS7 investments used by 800 Database Service vertical features. Moreover, the model incorporates current cost data from five nonfiling equipment vendors: Northern Telecom, DSC Communications, Digital Equipment Corporation, Ericsson and AT&T.

The model is both a trade secret and proprietary according to Bellcore, the owner of CCSCIS. Bellcore imposes limits on the use of CCSCIS and has established restrictions on the disclosure of information contained in or relating to the CCSCIS model. Therefore, because the model contains proprietary vendor data and is proprietary to Bellcore, Pacific

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Filed with Open Network Architecture Tariffs, Memorandum, Opinion and Order, 7 FCC Rcd 1526(992).

[14] Designating Order, at p.9.

[15] Letter to Ms. Donna Searcy, Ex parte Notice: CC Docket No. 93-129, August 3, 1993, from James Britt of Bellcore, Declaration of James J. Lechtenberg.

intends to request a waiver of the Designating Order's footnote 24 requirement to disclose the model on the record.

C. Pacific's Demand Estimates Are Justified.

Another area of inquiry in the Order is the reasonableness of the demand criteria used. Pacific's demand for basic queries was developed by following the price cap rules pertaining to a restructured service. Rule 61.47 requires that recast historical demand be used for rate restructure. Pacific used actual message data from 1991, which was the correct base period demand at the time of the original tariff filing.[16] Pacific did not use a discount rate in its demand calculations. Thus, Pacific's use of historic data to forecast 800 query demand is consistent with the price cap rules.

The Designating Order also inquires about the use of demand growth assumptions.[17] Demand growth assumptions are not rate affecting. Therefore, they are not germane to an investigation of rates because rule 61.47 requires that restructured rate making calculations utilize base period demand. Pacific used actual 1991 demand for all 800 Database services. The basic query rate was calculated by dividing the actual 1992 costs by the 1991 actual demand.

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[16] Transmittal No. 1615.

[17] Designating Order, p. 9.

D. Pacific's Method of Calculating its Vertical Feature Rates is Reasonable.

The Bureau also requests comments on the reasonableness of the LECs' rate methodologies for vertical features. (Designating Order, p. 9.) The Bureau specifically inquired as to whether vertical features require the LECs to use more complex and more costly hardware or software functions than those used by the basic query function. POTS translations do not require additional processing time. 800 Database queries require the SCP to return a 10-digit number along with the Carrier Identification Code (CIC) to the SSP. The costs are the same whether an 800 or POTS number is returned. In other words, the SCP returns the number provided by the RespOrg and makes no distinction between an 800 or a POTS number.

Multiple Destination and Routing (MDR) on the other hand, requires an additional amount of processing time which is reflected in the MDR rate that is charged in addition to the basic query rate.

E. Costs Incurred by Pacific for SMS/800 Access Are Also Just and Reasonable.

The Order also requests that the BOCs describe the annual costs for all expenses related to SMS/800 (access) incurred pursuant to contracts with Bellcore, Data Services Management, Inc. or any other entity, the terms of the contract and an explanation of how the annualized amount is calculated. Pacific's Transmittal 1615 (D & J at page III-7) describes

Pacific's ongoing SMS expenses as an SCP owner/operator. Those expenses include communication services for 10 dedicated 9.6Kb lines connected to the Kansas City Data Center, data base record validation, data base administration support and network management, testing and on-going software development.

The Bureau also invites comments in response to allegations by petitioners that SMS/800 costs "claimed by the BOCs to support their 800 data base query rates were not derived in compliance with the Commission's affiliate transaction rules."[18] Any software or hardware based services acquired by Pacific, from Bellcore, is charged to Pacific by Bellcore using fully distributed costs. Thus, the SMS/800 expenses (listed above) were included in Pacific's basic query rate and were derived in compliance with the Commission's affiliate transaction rules.

Appendix A also requests that the price cap LECs provide the cost detail, by account, associated with upgrading the SSPs for 800 Database Service and justify exogenous treatment. (Designating Order at p.15.) The Part 32 expense account associated with upgrading the SSPs for 800 Database Service is 32.6212 (Digital Electronic Expense). The SSPs would not have met the Commissions mandate for 800 Database Service if the 800 Database software upgrades had not been

[18] Designating Order, paragraph 27.

made. Pacific would not have added these SSP upgrades other than to provide 800 number portability.

In further response to questions posed in Appendix A, Pacific notes that it removed its overhead costs from its exogenous cost calculations in Transmittal No. 1632. Additionally, Pacific has not requested exogenous treatment for signaling link costs between STPs. Nor has it requested exogenous treatment for its regional and local STP switches.

The Order also requires that Pacific provide, for each of its SCPs, a description of each service that the SCP supports, as well as a diagram of the equipment in a typical SCP installation. Pacific has a total of five SCPs in its (California) network. The SCPs located in Los Angeles and in Gardena support 800 service only.

The SCPs in San Francisco and Oakland support 800, LIDB services and a security authentication system called Electronic Distribution Channel Authentication Process (EDCAP) which uses the LIDB database. EDCAP authorizes customer initiated feature changes for the customer's telephone service using the four digit PIN of an unrestricted calling card out of the LIDB database.

The fifth SCP is located in Walnut Creek. It is a laboratory which is used as a test bed for preservice deployment and new software deployment in the SCP network. Attachment A is a diagram depicting Pacific's equipment used in a typical SCP installation.

The 800 Database SCP costs were specifically identified in Pacific's Transmittal No. 1615 (pages III.B.5 through III.B.9). These identified costs were the 1992 actual expenditures required to upgrade the SCPs to provide number portability. Therefore, in response to question number 10 in Appendix A, Pacific has not allocated costs between 800 Database Service and LIDB Service. The LIDB costs and query rate were developed in 1991 prior to the 1992 expenditures for 800 Database service.

In further response to the Designating Order, attached is Pacific's unit cost and investment information and separations information (Attachments) requested in Appendix A.

IV. Nevada Bell's Responses to the Designating Order.

Nevada Bell is a rate of return LEC, and, although not listed as a necessary respondent to the Order by the Bureau, hereby responds in good faith to the questions presented.

A. Nevada Bell Has Revised Its Rates Reflecting Pacific Bell's Rate Revisions.

Initially, the Bureau asks whether the tariffs of rate of return LECs properly flow through changes in LEC costs of providing 800 Database services. (Designating Order, p. 10.) Nevada Bell filed its 800 Database Service tariff Transmittal 154 on March 5, 1993. This transmittal combined Nevada Bell's total direct costs, the Pacific tariff rate and a standard loading factor to develop its 800 access service rates.

On April 26, 1993, Nevada Bell filed to remove the overhead factor, reflect Pacific's reduced rates and to clarify its Area of Service Routing description.[19] Then, on June 9, Nevada Bell filed Transmittal 167 to revise its rates to reflect the reductions Pacific filed in its Transmittal 1632. Thus, Nevada has consistently filed revisions as necessary to reflect changes in Pacific's 800 service rates. If further changes are filed by Pacific that effect the rates for 800 services resold by Nevada Bell, Nevada Bell will file appropriate revisions that flow through changes.

B. <u>Nevada Bell's Method of Estimating Demand is Appropriate</u>.

The Bureau in Apendix B of the <u>Order</u> raises several questions about rate of return LECs' demand estimates. Nevada Bell has projected a demand of 35.7 million 800 Database messages.[20] It then used a 4.31% factor to lower demand to compensate for unbillable queries. This factor was developed by Nevada Bell product marketing managers based on previous studies of unbillable messages.

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[19] Nevada Bell Transmittal 159.

[20] Nevada Bell Transmittal 154, Workpapers 1-2.